

Advisory Opinion

IECDB AO 2009-06

April 30, 2009

TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(12) and rule 351—1.2, the Iowa Ethics and Campaign Disclosure Board issues this opinion on the length of time that campaign records and records must be retained by campaign committees and the Board. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

OPINION:

In IECDB Advisory Opinions 2001-19 and 2003-09, the Board opined on how long campaign records and reports were required to be retained by campaign committees and the campaign filing repositories. Due to amendments to the law, the Board issues this updated opinion.

Records Retained by Campaign Committees:

Pursuant to Iowa Code section 68A.203(4), campaign records are required to be preserved for five years. The five-year period commences with the "due date of the disclosure report covering the activity documented in the records."

However, a committee that is no longer active and has properly been dissolved under Iowa Code section 68A.402B is required under Iowa Code section 68A.203(4) to retain records for three years after the committee is certified as dissolved by the Board.

Reports Retained by Board

Prior to January 1, 2003, campaign committees for county and local campaigns filed their reports with the appropriate county auditor (county commissioner of elections). The Board as a secondary repository then received a copy of the filings for enforcement purposes. ¹

After January 1, 2003, the Board became the primary repository and was required to provide copies of county and local reports to the county auditors as secondary repositories. ² The Board accomplished this by posting the reports on the Board's Web site and asking the county auditors to establish a link on their Web sites to the reports.

The statute was amended again to remove the county auditors as secondary repositories and directed the Board to post all campaign filings on its Web site. Thus, the Board became the sole custodian of filed campaign reports for both state and local committees.³

Pursuant to Iowa Code section 68A.401(2) the Board is required to “retain filed statements and reports for at least five years from the date of the election in which the committee is involved, or at least five years from the certified date of dissolution of the committee, whichever date is later.”

As far as records retention, pursuant to rule 351—4.8(3) that was adopted in 2007, the Board will “maintain and retain all statements and reports filed under Iowa Code chapter 68A under the applicable provisions of Iowa Code chapter 305.”⁴

IECDB Advisory Opinions 2001-19 and 2003-09 are hereby rescinded.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair
Janet Carl, Vice Chair
Gerald Sullivan
Betsy Roe
John Walsh
Patricia Harper

Submitted by: W. Charles Smithson, Board Legal Counsel

¹ Reports filed by state committees were always filed with the Board and there was no secondary repository.

²See 2002 Iowa Acts, Chapter 1073.

³See 2007 Iowa Acts, Chapter 14, section 5, and 2007 Iowa Acts, Chapter 80, section 1.

⁴Iowa Code chapter 305 sets out state records and the archiving of state records.